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Attorneys for Defendants

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Adv. Pro. No. 08-1789 (SMB)

Plaintiff-Applicant,

SIPA LIQUIDATION

(Substantively Consolidated)

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

Adv. Pro. No. 10-04469 (SMB)

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC,

JURY TRIAL DEMANDED

Plaintiff,

v.

CAROL L. KAMENSTEIN, individually and in her
capacity as joint tenant, DAVID R. KAMENSTEIN,
individually and in his capacity as joint tenant, SLOAN
G. KAMENSTEIN, and TRACY D. KAMENSTEIN,

Defendants.

**DECLARATION IN SUPPORT OF MOTION FOR PARTIAL SUMMARY JUDGMENT
AND MOTION TO DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION**

I, CAROL L. KAMENSTEIN, declare pursuant to 28 U.S.C. § 1746, under penalty of perjury under the laws of the United States of America, that the following is true and correct:

1. I am a defendant in this action, the wife of David R. Kamenstein, and the mother of Tracy D. Kamenstein and Sloan G. Kamenstein. I submit this declaration in support of Tracy's motion for partial summary judgment and the motion, on behalf of all of us, to dismiss the Complaint for lack of subject matter jurisdiction. It is my understanding that in the last two years of Madoff's operation, from December 11, 2006 to December 11, 2008, Tracy did not receive any withdrawals from her Madoff account. Thus, the complaint should be dismissed against Tracy.

The Trust Accounts

2. On April 11, 1984, David and I formed two trusts for the benefit of our children, Tracy and Sloan. *See Declaration of David R. Kamenstein, dated November 16, 2020 ("David Dec."), Ex. A* (Trust Agreement for the 1984 Tracy Dara Kamenstein Irrevocable Trust (the "Tracy Trust") [AMF00267661-696]); *see David Dec., Ex. B* (Trust Agreement for the 1984 Sloan George Kamenstein Irrevocable Trust (the "Sloan Trust" and, collectively, "the Trust Agreements" or "the Trusts") [AMF00267776-811]). I am the Trustee of the Sloan Trust and David is the Trustee of the Tracy Trust. *See David Dec., Ex. B* at cover, preamble and p. 34 (Sloan Trust [AMF00267776-811 at 776, 777 and 809]); *see David Dec. Ex. A* at cover, preamble and p. 33 (Tracy Trust [AMF00267661-696 at 697, 662 and 694]). However, David handled all communications with Madoff and the funds for the entire family.

3. On August 23, 1999, I understand that David opened a Madoff account for the Tracy Trust, Account No. 1CM596 (the "Tracy Trust Account"), signing the account opening documents as Trustee. On the same date, I opened a Madoff account for the Sloan Trust, Account No. 1CM597 (the "Sloan Trust Account"), signing the account opening documents as Trustee. *See*

David Dec., **Ex. F** (Account Opening Documents for the Tracy Trust Account [AMF00267652-696]); and David Dec., **Ex. G** (Account Opening Documents for the Sloan Trust Account [AMF00267767-811]).

4. In July 2003, David and I opened a joint account with Bernard L. Madoff, Account No. CM247. *See* David Dec., **Ex. D** (Account Opening Documents [AMF00250599-617]). By letter dated December 23, 2004, we requested that Madoff split equally the balance in the joint account and open two separate accounts, one in my name and one in David's name. *See* David Dec., **Ex. E** (Letter dated December 23, 2004 to Jodi Crupi [AMF00250545]). I understand that David continued to manage all of the family's accounts.

Day-to-day management of the Madoff accounts

5. As I understand it, all of the withdrawal requests from all four Madoff Accounts were handled by David.

6. David and I used the money that was withdrawn for our own support.

7. It is my understanding that all withdrawals from accounts we held with Madoff during the clawback period were deposited into the CKDK CAP account ending in 822 at Wachovia Bank, previously First Union Bank.

8. Accordingly, this Court should grant partial summary judgment to Tracy dismissing the Complaint against her because she did not receive any of the transfers in question.. Further, this Court should grant summary judgment dismissing the Complaint as against all of us for lack of subject matter jurisdiction.


Carol L. Kamenstein

Executed on 16 November, 2020